



## **Zoning Enforcement Officer**

**TOWN OF ACTON**  
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### ***INTERDEPARTMENTAL COMMUNICATION***

**To:** Chairman & Members of the Board  
Zoning Board of Appeals  
**Date:** December 18, 2014

**From:** Scott A. Mutch, Zoning Enforcement Officer & Assistant Town Planner

**Subject:** Special Permit #15-02  
Zoning Bylaw Section 8.1 – Nonconforming Lots  
Construction of Addition on Nonconforming Lot in Excess of 15% (§8.1.5)

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Location: 626 Massachusetts Avenue, Acton, MA 01720  
Petitioner: Mark T. Ennaguess, 186 Great Road, Maynard, MA 01754  
Owner: Cynthia Nelson, 626 Massachusetts Avenue, Acton, MA 01720  
Engineer: R. Wilson & Associates, Land Surveyors and Civil Engineers, 360 Massachusetts Avenue, Acton, MA 01720  
Zoning: Residence 2 (R-2)  
Groundwater Protection District Zone 4  
FAR Requirements: Existing Dwelling: 2,326 ft<sup>2</sup> (Based on information obtained from the Town of Acton's Assessor's Office)  
15% Permitted by-right: 349 ft<sup>2</sup>  
Total Proposed Square Feet of New Construction: 732 ft<sup>2</sup>  
Proposed Use: Single Family Residential Dwelling  
Registry of Deeds: Deed Book – 62640; Page – 573  
Plan Reference: Plan Book – 400, Plan – 37  
Map/Parcel: F2A-73  
Hearing Date: January 5, 2015  
Decision Due: April 5, 2015

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### **Introduction:**

The petitioner, Mr. Mark T. Ennaguess, is requesting a Special Permit under Section 8.1.5 in order to allow for the partial reconstruction and expansion of an existing single family residential dwelling located on a non-conforming lot. There is no new below-grade basement space proposed. The overall proposed new square footage is 732 square feet, which is in excess of the 15% permitted as-of-right under Section 8.1.4 of the Zoning Bylaw. The subject property is classified and determined to be a nonconforming lot due to insufficient lot frontage and lot area. As per the Town of Acton Assessor's Office information, the existing structure was constructed in 1953.

The drawings submitted as part of the application also indicate a proposed deck with stairs down to grade and an 8'-0" x 12'-0" screened deck under roof with skylight which appears to have been crossed off and removed from the proposed scope of work and building renovations.

The Planning Department has no objection to the issuance and granting of the requested Special permit.

Relevant zoning information for the subject site/property is summarized in the following table:

<b>By-Law Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Min. Lot Area (ft <sup>2</sup> ) *	20,000 ft <sup>2</sup>	13,500 ft <sup>2</sup> *	13,500 ft <sup>2</sup> *
Min. Lot Frontage (ft) **	150'-0"	90'-0" **	90'-0" **
Min. Front Yard (ft) – Mass. Ave	30'-0"	27'-8"	27'-8"
Min. Side Yard (ft) – East	10'-0"	14'-11"	14'-11"
Min. Side Yard (ft) – West	10'-0"	14'-10"	11'-10"
Min. Rear Yard (ft) – South	10'-0"	Unknown	Unknown (>10'-0")
Max. Building Height (ft)	36'-0"	Unknown (< 36'-0")	Unknown (< 36'-0") ***

\* Due to the subject property only having 13,500 ft<sup>2</sup> of total overall Lot Area, the Lot is therefore nonconforming.

\*\* Due to the subject property only having 90'-0" of total overall Lot Frontage, the Lot is therefore nonconforming.

\*\*\* It is unclear from the architectural plans submitted for review what the actual height of either the existing dwelling or the height of the new addition currently is and or will be. Knowing that the existing home and proposed addition are only one (1) story in height, it is reasonable to conclude that both the existing dwelling and the new proposed addition would not exceed the 36'-0" maximum height limitation.

	<b>Existing</b>	<b>15%</b>	<b>Proposed</b>	<b>Additional</b>
Gross F.A.R. (Floor Area Ratio) as of April 1, 2012	2,326 ft <sup>2</sup> *	349 ft <sup>2</sup> **	732 ft <sup>2</sup> ***	383 ft <sup>2</sup> ****

\* This number is based upon information obtained from the Town of Acton's Assessor's Office and the field card submitted by the Applicant. It is a best estimation of the actual gross square footage of the existing structure. Due to the Lot being nonconforming, this is the number which reflects the existing gross square footage of the dwelling which was in existence as of April 1, 2012 as required under Zoning Bylaw Section 8.1.4.

\*\* Based upon the requirements set forth in Section 8.1.4 of the Zoning Bylaw, this would signify the maximum amount of square footage permitted to be built through the administrative approval of a building permit.

\*\*\* This number is a cumulative total of all of the proposed new construction which must be counted under Section 8.1.4 of the Zoning Bylaw.

\*\*\*\* This is the difference in square footage proposed above and beyond the 15% maximum permitted by right.

**Applicable Town of Acton Zoning Bylaw Sections:**

- 8.1.4 Extensions, alterations or changes of Single- and Two-Family Dwellings on Nonconforming Lots – One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 15 percent of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that LOT became nonconforming, whichever is later.
- 8.1.5 In all other cases, the Board of Appeals may, by special permit, allow such reconstruction of, or extension, alteration or change to a single or two-family residential STRUCTURE on a nonconforming LOT, where it determines either that the proposed modification does not increase the nonconformity or, if the proposed modification does increase the nonconformity, it will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.